

HUD ISSUES GUIDANCE ON LGBT HOUSING DISCRIMINATION COMPLAINTS

The U.S. Department of Housing and Urban Development (HUD) has announced a new policy that provides lesbian, gay, bisexual and transgender (LGBT) individuals and families with help when facing housing discrimination.

The new guidance treats gender identity discrimination most often faced by transgender persons as gender discrimination under the Fair Housing Act, and instructs HUD staff to inform individuals filing complaints about state and local agencies that have LGBT-inclusive discrimination laws. HUD Secretary Shaun Donovan announced the new guidance at HUD's LGBT Pride Month Celebration.

"Our job to prevent and combat housing discrimination is not complete without addressing 21st Century issues," stated John Trasviña, Assistant Secretary for Fair Housing and Equal Opportunity. "Our fair housing staff will work with state and local civil rights agencies to investigate and refer discrimination cases and work to combat all aspects of gender discrimination."

Approximately twenty states, the District of Columbia, and over 60 cities, towns and counties across the nation prohibit discrimination against LGBT individuals. Under HUD's new policy, HUD will retain its jurisdiction over complaints filed by LGBT individuals or families but also jointly investigate or refer matters to those state, district and local governments with other legal protections.

For example, if a man alleges that he is being evicted because he is gay and his landlord believes he will infect other tenants with HIV, then the allegation of discrimination may be jurisdictional under the Fair Housing Act based on disability because the man is regarded as having a disability, HIV/AIDS. Similarly, if a female prospective tenant is alleging discrimination by a landlord because she wears masculine clothes and engages in other physical expressions that are stereotypically male, then the allegations may be jurisdictional under the Act as discrimination based on gender.

Last October, HUD Secretary Shaun Donovan announced a series of other measures to ensure that the agency's core housing programs are open to all, regardless of sexual orientation or gender identity. Earlier this month, HUD announced that it will require grant applicants seeking HUD funding to comply with state and local anti-discrimination laws that protect LGBT individuals. In addition, HUD intends to propose new regulations that will clarify that the term "family" as used to describe eligible beneficiaries of HUD's programs include otherwise eligible LGBT individuals and couples. The Department's intent to propose new regulations will clarify family status to ensure its core housing programs are available to all families, regardless of their sexual orientation or gender identity.

The Federal Housing Administration (FHA) will also instruct its lending community that FHA-insured mortgage loans must be based on the credit-worthiness of borrowers and

not on unrelated factors or characteristics such as sexual orientation or gender identity. Finally, HUD will commission the first-ever national study of discrimination against members of the LGBT community in the rental and sale of housing. The Department is currently seeking online public comment from interested parties in how it might design this new study.